

SCHOOLS: Illegal for school district to pay for transportation of children in vehicles not meeting regulations adopted by State Board of Education, regardless of whether district receives state aid.



December 9, 1957

Honorable William E. Neff  
Prosecuting Attorney  
Benton County  
Warsaw, Missouri

Dear Mr. Neff:

This is in response to your request for opinion dated September 25, 1957, which reads as follows:

"The question has arisen: can the directors of Lutjen School District, No. 37, legally pay a person under contract to transport the pupils of the district if the vehicle used for transportation fails to pass inspection by the Highway Patrol under the direction of the State Department of Education because of the absence of proper signal lights as specified in Missouri Pupil Transportation, Laws, Regulations and Standards, Publication No. 73, Revised edition 1957?

"Lutjen School District, No. 37, Benton County, Missouri, is a three-director district. The school has been closed and the pupils transported to a nearby school for several years. Under the recently passed School Money Apportionment Law the above school district does not qualify for state apportionment.

"The only money which the district has to pay its transportation and tuition costs is that money received from local taxes, railroad and utilities, interest, fines, and forfeitures, and foreign insurance.

Honorable William E. Neff

"The point in question is, since this district receives no State Money, must the vehicle used for transportation meet all requirements before any district money can be legally paid for transportation services?"

Section 304.060, RSMo 1949, provides:

"1. The state board of education shall adopt and enforce regulations not inconsistent with law to cover the design and operation of all school busses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this state, and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to such regulations. The state board of education shall cooperate with the state highway department and the state highway patrol in placing suitable warning signs at intervals on the highways of the state.

"2. Any officer or employee of any school district who violates any of the regulations or fails to include obligation to comply with such regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any such regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district."

Honorable William E. Neff

Pursuant to the authority conferred by that section, the State Board of Education has formulated regulations which are to be found in the pamphlet entitled, "Missouri Pupil Transportation; Laws, Regulations and Standards, Revised Edition 1957, Publication No. 73." The minimum standards for signal lamps are set out in that publication, at page 43, et seq.

By the express terms of Section 304.060, supra, the regulations above referred to are made a part of every contract entered into by a school district for the transportation of school children, regardless of whether the district is the recipient of state aid. It is made the obligation of the school board to afford the contractor a hearing after notice, and if it is found that he has violated these regulations, to cancel his contract.

#### CONCLUSION

It is therefore the opinion of this office that vehicles used for the transportation of school children must meet the regulations governing pupil transportation adopted by the State Board of Education before a school district can legally pay out money to a contractor providing such transportation, regardless of whether the district receives state aid.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON  
Attorney General

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